

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

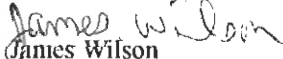
JAMES WILSON,	)	Civil Action No . 04-1363- GMS
	)	
Petitioner,	)	
	)	
v.	)	
	)	
RICHARD KEARNEY ,	)	
Warden,	)	
	)	
Respondent.	)	

**Motion for procedural default defense**

1. Respondents were given **forty – five (45) days** of receipt of the petition and order, in accordance with 28 U.S.C. Sec. 2254, rule 5. And has failed to do as required
2. When state's return to Habeas Corpus petition fails to dispute factual allegations contained in petition and traverse, it essentially admits those allegations. See. Bland V. Cal, 20 F.3d 1469.
3. By failing to affirmatively assert it in answer to state prisoner's petition for Habeas relief, Procedural default defense is proven. See. Reese v. Nix, 942 f.2d 1276 also, Habeas Corpus key 683,684

THEREFORE, Petitioner request that this Honorable Court grant him this motion for procedural default defense and grant him Habeas Corpus Relief.

DATED: Friday, March 11, 2005

  
James Wilson  
S.C.I.  
Georgetown, DE. 19947

I here by certify that I have sent the above motion for procedural default defense to the following(s)

District Court  
Honorable Gregory M. Sleet  
844 King St. Wilm, DE. 19801

State of Attorney General  
820 N. French, St. Wilm, DE. 19801  
State Carvel Build Dept. of Justice

on THIS 11<sup>th</sup> day of March, 05

James A. Wilborn